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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,010	04/03/2004	Gordon Walker Nugent		1590

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EXAMINER	
VANAMAN, FRANK BENNETT	
ART UNIT	**PAPER NUMBER**
3618	

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/817,010	NUGENT, GORDON WALKER	
	Examiner	Art Unit	
	Frank Vanaman	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-30* is/are pending in the application.

4a) Of the above claim(s) *27-30* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *19-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *4/3/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Election/Restrictions

1. Applicant's election with traverse of Invention I and Species I in the reply filed on June 13, 2005 is acknowledged. The traversal is on the ground(s) that the claims as redrafted are directed to the same patentable invention. This is not found persuasive because the claims, while redrafted, still define patentably distinct inventions, namely an apparatus and a method of use there-for. Note that only one-way distinctness is required, and in this case, the method may be performed by another materially different apparatus, such as a modular wafer-carrying cart.

The requirement is still deemed proper and is therefore made FINAL.

Claims 19-26 are directed to the apparatus and are examined herein, claims 27-30 are directed to a method for its use, and are hereby withdrawn from consideration as being directed to a non-elected invention. An Office Action on claims 19-26 follows.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the quick release connectors comprising pivot pins, interlocking spine segments, slots, projections, spring loaded clips and clamps, permanent magnets, loops of leather, hooks and pins must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to for containing derogatory remarks concerning the prior art. See Page 1, beginning at line 17 (the reference to Wal-Mart), and the entirety of page 3. See MPEP 608.01r:

> **MPEP 608.01(r) Derogatory Remarks About Prior Art in Specification**
>
> The applicant may refer to the general state of the art and the advance thereover made by his or her invention, but he or she is not permitted to make derogatory remarks concerning the inventions of others. Derogatory remarks are statements disparaging the products or processes of any particular person other than the applicant, or statements as to the merits or validity of applications or patents of another person. Mere comparisons with the prior art are not considered to be disparaging, *per se*.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 19-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 19, line 4, the recitation of plural containers is confusing in view of the recitation in line 2, which specifically refers to "at least one" container, but does not limit the number of containers from being one; also note line 7. In claim 1, lines 4-5 and claim 23, lines 7-8, it is not clear what precise limitation is being recited by "at least at approximate dining-table height", and it is further unclear whether or not some aspect of a dining table is being required in order to define applicant's invention; in claim 1, lines 10-12, it is not clear what particular structural or functional limitation is being recited; in claim 22 and 26, lines 2-5, the Markush format (identified by applicant's use of the opening phrase: "selected from the group...") is not proper. Alternative expressions are permitted if they present no uncertainty or ambiguity with respect to the question of scope or clarity of the claims. One acceptable form of

alternative expression, which is commonly referred to as a Markush group, recites members as being "selected from the group consisting of A, B and C." See Ex parte Markush, 1925 C.D. 126 (Comm'r Pat. 1925). The materials set forth in the Markush group ordinarily must belong to a recognized physical or chemical class or to an art-recognized class. However, when the Markush group occurs in a claim reciting a process or a combination (not a single compound), it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property. Regarding claims 22 and 26, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 19-21 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by McArthur (US 5,464,104). McArthur teaches a cart having a chassis including a dual spined frame (11) for carrying a plurality of containers (23a, 23b, 23c) which may carry merchandise or other burdens, means for quick connection and disconnection (12a, 12b, 13a, 13b, etc) comprising sliding hook portions, which means retain the containers, a parking device (15a, 15b, 16a, 16b), a plurality of wheels (19a, 19b) for allowing maneuvering of the cart, wherein containers may be supported at a heigt equal to a dining room table having the same height as one of the containers, and wherein the cart is not limited from being used in a kitchen.

7. Claims 19-21 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Watson (US 6,394,471). Watson teaches a cart having a chassis including a dual spined frame (10, 12) for carrying a plurality of containers (31) which

may carry merchandise or other burdens, means for quick connection and disconnection (36) comprising sliding hook portions, which means retain the containers on the cart, a parking device (27, 29, 30), a plurality of wheels (11) for allowing maneuvering of the cart, wherein containers may be supported at a height equal to a dining room table having the same height as one of the containers, and wherein the cart is not limited from being used in a kitchen.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over McArthur. The reference to McArthur is discussed above and fails to teach the specific material of the cart. Both plastic and light metal alloys are exceptionally old and well known in the manufacture of consumer carts, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to construct the cart of McArthur from a light metallic alloy, or from a plastic, for the purpose of allowing the cart to be inexpensively made, and to provide a high strength-to-weight ratio.

10. Claims 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson. The reference to Watson is discussed above and fails to teach the specific material of the cart. Both plastic and light metal alloys are exceptionally old and well known in the manufacture of consumer carts, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to construct the cart of Watson from a light metallic alloy, or from a plastic, for the purpose of allowing the cart to be inexpensively made, and to provide a high strength-to-weight ratio.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Humphries et al. (US 2,835,503), Shaffer (US 4,047,724), Hsaio

(US 5,765,857), Hallberg, Jr. (US 5,947,492), Clegg (US 6,254,112), and Harlan (US 6,131,926) teach carts of pertinence.

12. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:
Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,
Or faxed to:
PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618

8/15/05